

**DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**SUMMARY REPORT OF INVESTIGATION
CONCERNING DISTRICT OF COLUMBIA
TOWING REGULATIONS AND ENFORCEMENT
OIG NO. 99-0318(S)
DATED MARCH 30, 2001**

This Summary Report of Investigation describes the Office of the Inspector General's (OIG) review of compliance with the District's towing regulations and enforcement. The OIG is providing this Summary in lieu of the full Report of Investigation to preserve the privacy interests of individuals and the business reputations of private entities referenced in the full report. In addition, the full report contains confidential information pertaining to law enforcement sources and procedures, as well as information regarding pending investigations and enforcement proceedings that could compromise the integrity of these matters if disclosed.

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I. PREDICATION:

Information regarding the District of Columbia towing industry was received by the District of Columbia Office of the Inspector General (OIG) in regard to:

- Whether Metropolitan Police Department (MPD) Officers adhere to procedures set forth by MPD General Orders regarding tow crane operations and enforcement.
- Whether the Department of Consumer and Regulatory Affairs (DCRA) investigates and enforces violations of District tow regulations.
- Whether Chapter 4 of Title 16, District of Columbia Municipal Regulations (DCMR), Towing Services for Motor Vehicles, adequately addresses the rights of vehicle owners.

II. BACKGROUND:

The DCMR is the official code of permanent rules and statements of general applicability and legal effect promulgated by Executive departments and agencies and by independent entities of the Government of the District of Columbia. Title 16, Consumers, Commercial Practices & Civil Infractions, effective August 21, 1956, and amended in 1987, consists of 30 Chapters. Towing Service for Motor Vehicles is covered in Chapter 4. There are approximately 56 tow companies licensed in the District, with approximately 186 registered cranes. Towing operations in the District are divided into four main categories: (1) request by vehicle owner, (2) tows from private property, (3) tows requested by MPD, and (4) tows by the Department of Public Works (DPW). DCRA, by statute, through the Office of Consumer Protection, is responsible for enforcing tow violations, § 4 (b)(1) of the District of Columbia Consumer Protection Procedures Act, codified at D.C. Code § 28-3903 (b)(1)(1981).

At the time of the OIG review, MPD Fleet Division had five cranes and contracted private towing companies to provide towing and storage services when departmental tow cranes were unavailable. MPD cranes or contract tow companies are requested through the MPD Communications Division. Tow contractors are responsible for providing tow services within the geographic confines of the specific police district in which they are listed. Contractors are placed on the MPD tow list based on their location within the confines of the District. One stipulation to be on the MPD list is the requirement that the

contractor respond within a 30-minute period. The assigned districts are not interchangeable.

The Parking Services Administration (PSA), DPW, is responsible for towing and parking enforcement of vehicles in violation of the city parking ordinances. PSA has two divisions: the Abandoned & Junk Vehicle Division (AJVD) and the Parking Enforcement Division.

As an integral part of this investigation, a review was conducted of MPD General Order 303.3, Tow Crane Operation and Enforcement; Special Order 97.28, Contract Towing Services for Recovered Stolen Vehicles, Impoundments, and Emergency Relocation; General Order 201.17, Outside Employment and Financial Statements, and Chapter 4 of Title 16 DCMR.

Adherence to MPD General Orders Regarding Tow Crane Operations and Enforcement. Metropolitan Police Department General Order 303.3, provides, in pertinent part, at Section C. Impoundments on Private Property:

1. Members receiving complaints of vehicles illegally parked on private property shall issue an appropriately completed NOI [Notice of Infraction], if the property owner or manager is willing to cooperate in the prosecution of the case.
2. Members shall have said vehicles removed from private property only if the property owner or manager so requests, and signs the back of copy A of the NOI and the back of the tow crane receipt.

For many tow companies, private property tows generate a large amount of revenue. In order to expedite tows, tow companies have generated a “tow contract” with private apartment complexes making the tow crane operator a representative of the property owner. Tow crane operators contact MPD Officers who issue NOIs for vehicles parked on the private property. Based on complaint reports and interviews, the investigation revealed that: (1) Officers are shown the contract and advised by the tow operator that they represent the owner; and (2) Officers did not question the legality of the contract and issued the NOIs. The property owner is often unaware of which vehicles have been towed from their property and are seldom present to sign the NOIs and the tow receipts.

MPD General Order 201.17(B)(2)(a), Outside Employment and Financial Statements, Prohibitions for Outside Employment, provides, in pertinent part;

The following types of outside employment are prohibited in any jurisdiction: (a) Employment for any business or in any capacity over which the Metropolitan Police Department exercises a special supervisory, regulatory, or enforcement function.

Additionally, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-619.2), provides that:

No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

Many MPD Officers work off-duty, in uniform, as security for District apartment complexes. As part of the security detail, officers enforce unauthorized parking in the parking lots of apartment complexes. While performing these duties, Officers issue NOIs for parking violations, and then these vehicles are towed by private tow companies. According to information received, Internal Affairs addressed this issue in 1998 and concluded that officers working off-duty, issuing NOIs for parking violations, assisted on-duty patrol officers, thereby allowing them to respond to other calls for service.

As a sub-issue, MPD Officers are not always enforcing tow regulations as required in MPD General Order 303.3(F) – Tow Crane Regulations. Pursuant to MPD General Orders, where it appears to the Officer that any of the tow crane regulations have been violated, the officer shall prepare a PD Form 251 (Event Report) stating all the facts and circumstances surrounding the incident, and cite the tow crane operator(s) with an appropriate NOI for violating the regulations. A copy of the PD Form 251 is required to be forwarded to DCRA for investigation. The OIG review found that DCRA has seldom received a PD Form 251, even for violations where officers were present.

DCRA has received numerous complaints from tow crane operators regarding MPD Officers not following procedures for vehicle removal at the scene of traffic accidents. At an accident scene, MPD Officers radio the dispatcher for a tow crane and are provided with the name of the responding company. MPD dispatch assigns the tow cranes based on a rotating list. However, based on information received, some officers permit unauthorized tow companies to respond and tow vehicles. DCRA received approximately 15 complaints from tow crane operators between January 2000, to November 2000, regarding unauthorized tow cranes taking vehicles from accident scenes in which they were called to service. When tow cranes respond to an accident scene without being dispatched, officers on the scene should investigate how the tow crane became aware of the accident.

16 DCMR §§ 408.9 and 408.10, provide, in pertinent part;

It shall be unlawful for any person conducting a tow truck business . . . to install or maintain in a tow truck . . . a radio receiver capable of being tuned to the MPD radio frequencies. Id. at § 408.9.

It shall be unlawful for any tow truck worker to stop at the scene of any accident and furnish any towing service, unless he or she has been called to the scene by the owner or operator of a disabled vehicle or by a member of MPD pursuant to Department procedures. Id. at § 408.10.

Additionally, it appears that many MPD Officers call the tow companies directly, often resulting in no record of the tow in MPD Teletype. Officers may be calling the tow company directly to expedite the tow. Officers who directly call for a tow company to respond are in violation of 16 DCMR § 408.5, which provides:

It shall be unlawful for any employee of the Government of the District of Columbia to solicit the employment of any person conducting a tow truck business; or to volunteer the name of any tow truck business to the owner or operator of a disabled vehicle.

Regarding MPD Officers' responsibilities when a stolen vehicle is recovered, MPD Special Order 97-28(D), provides, in pertinent part:

Members recovering stolen vehicles shall:

1. Attempt to notify the owner through the radio dispatcher [and] . . . request . . . [the owner to]:
 - (a) respond to the scene and take possession of the vehicle, OR
 - (b) arrange to have a licensed tow crane of the owner's choice respond and recover the vehicle.
2. Contact the radio dispatcher and request the services of the appropriate towing contractor when all efforts to secure the release of the vehicle from the field have been exhausted.

This Special Order continues to outline specific steps officers should take regarding the towing of recovered stolen vehicles.

DCRA Investigations and Enforcement of Violations of District Tow Regulations.

DCRA has one investigator responsible for overseeing 56 private tow companies within the District. The investigator receives complaints from citizens as well as tow crane operators. Many complaints are not investigated due to a lack of staff. The main complaint from citizens is over charging, while tow crane operators complain that MPD Officers are not available when they need NOIs issued for vehicles they need to tow.

Prior to issuing a license to operate, the investigator for DCRA must inspect all tow cranes and business locations. Licenses are renewed each year; however, based upon information received, re-inspections are not conducted. After the original inspection, the addresses submitted as the business address are not always actually used as a working

business. The MPD rotating list is based on the DCRA addresses on record for each tow company. Having more than one address in different sections of the District increases the likelihood of the same companies being called by MPD.

Rights of Vehicle Owners Pursuant to Chapter 4 of Title 16, District of Columbia Municipal Regulations (DCMR), Towing Services for Motor Vehicles. A review of Chapter 4 of Title 16, DCMR, revealed much of the phrasing to be nebulous, such as the meaning of “trustworthiness” of the applicant, a proportionally reasonable schedule of minimum and maximum fees, and the requirement of storage or repair facilities. OIG Investigators reviewed tow crane regulations from local jurisdictions, in conjunction with the States of Florida and Massachusetts, in order to combine the “best practices” for each subject addressed in the regulations.

Many complaints received by the OIG and the DCRA Investigator related to vehicle owners being notified of storage charges, which were excessive. In 1998, after the OIG Investigators received a similar complaint, the tow company owner was questioned about the storage charges. He responded by saying that it was not the tow company’s responsibility to notify vehicle owners. 18 DCMR § 2421.2 states:

It shall be the duty of the Police Department or the Department of Public Works to inform as soon as practicable the owner or other persons in charge of an impounded vehicle or claiming the same, of the nature and circumstances of the traffic violation provided for in this subtitle, and for which, or on account of which, the vehicle was impounded.

Additionally, D.C. Code § 40-812 (b) states that with respect to any vehicle on private property subject to impoundment, the private property owner must make reasonable efforts to give notice to the owner or operator of the vehicle in violation.

This investigation revealed that MPD was not notifying vehicle owners in all cases, and that private property owners are often unaware of what vehicle has been towed from their property.

The AJVD, DPW, under D.C. Code § 40-812.1(a), must notify owners by certified mail within five working days after an abandoned or junk vehicle has been taken into custody. Within ten days of taking the vehicle, AJVD must publish a list of towed vehicles in a District newspaper of general circulation, once a week for two consecutive weeks, describing the vehicle and location of the facility where the vehicle was towed. *Id.* at § 40-812.1(b). However, private tow companies are not required to notify owners.

Notification is dependent on the inputting of correct information at MPD Teletype. The process of documenting tows at MPD was antiquated and not functional. For example, tow crane operators are required to call Teletype to give the license number and vehicle Identification Number (VIN) of the vehicle being towed. Teletype operators write the information into a log, which is later entered into the computer. The database was old

and would only accept 15 digits of the 17-digit VIN. OIG Investigators randomly checked a series of license numbers and VINs against actual tow receipts. More than half of the numbers were either entered incorrectly or not entered at all. However, when vehicle owners contact Teletype to find out if their vehicle was towed, they are told that there is no record of their vehicle. The owners often report the vehicle as stolen and many times never find the vehicle.

III. SUMMARY OF FINDINGS:

In reviewing the present tow regulations and procedures for the District cranes and private tow company's, the OIG found a lack of control measures to prevent vehicles from being misplaced and the resulting inconvenience to District residents. The OIG found that:

- Procedures, set forth in MPD General Order 303.3, are not always followed by MPD Officers.
- MPD officers, working outside employment as security for private apartment complexes, issue NOIs for parking violations. This activity is contrary to General Order 201.17(B). This activity also gives the appearance of a conflict of interest, which is a violation of the District of Columbia Government Comprehensive Merit Personnel Act of 1978.
- Violations of 16 DCMR §§ 408.9 and 408.10 occur when unauthorized tow companies arrive at accident scenes, and MPD Officers do not always cite those responsible for the violation.
- Significant deficiencies exist in the manner that DCRA investigates and enforces tow violations.
- Chapter 4 of Title 16 DCMR is poorly worded, easily misinterpreted, and does not adequately address the rights of vehicle owners.

IV. RECOMMENDATIONS:

Based on the results of this review, the Inspector General recommends:

- Chapter 4 of Title 16 DCMR be reviewed and appropriate changes made to address the findings in this investigation.
- That MPD Officers are held accountable for failure to adhere to MPD General Orders.

- That a policy prohibiting MPD employees from having an ownership interest in a private tow business, along with off-duty police officers working for private apartment complexes as parking enforcement, be considered.
- That the District evaluate the need to have private tow companies tow and store recovered stolen vehicles, thereby profiting from a violation of the law.
- That DCRA conduct unannounced, quarterly inspections of all District tow companies, on a rotating basis, and keep a log of all inspections and findings.
- That DCRA assign an appropriate number of investigators commensurate with the volume of business in the District.
- That DCRA Enforcement Division investigate reported violations in a timely manner.
- That a pamphlet outlining customers' rights is created and made available for the public. Tow companies should be required to give this pamphlet to customers prior to consent tows and attach it to the tow receipt for non-consent tows.
- That private tow companies adhere to the notification policy as now required of the Abandoned and Junk Vehicle Division. Additionally, private tow companies should be required to bi-weekly fax a list of towed vehicles to MPD Auto Theft Unit, and forward hard copies monthly.
- That a policy is established to set maximum rates for "non-consent" tows and guidelines for reasonable rates for consent tows.
- That equipment in the MPD Teletype Division is upgraded and MPD goes online with the National Impound Program.